

"2. That the statements 'FOR HEALTH—FOR ZIP—A TUNE-UP!' are merely sales talk and not misleading.

"3. That the statement 'It's one of the best ways of getting necessary amounts of Vitamins B-1, B-2, E, and G,' is misleading with respect to the inclusion of the terms B-2 and G, which are synonymous and tend to indicate that they are two different vitamins.

"4. That the statement 'Vitamin B essential for appetite, normal function of nerves and digestive system, promotes natural growth' is ambiguous in that Vitamin B has no scientific significance.

"5. That the statement on the label as to Vitamin E is misleading.

"6. That the statement 'Essential in prevention of Pellagra, Dermatitis, Cataract' is misleading and that the statement as to skin infection is too broad.

"7. That the statement on the label 'Also an abundance of highly valuable minerals' is misleading.

"The court further finds that said article is misbranded in violation of Title 21 U. S. C., Section 343 (j) in that it purports to be and is represented as a food for special dietary uses by reason of its vitamin and mineral content and that said label fails to bear the necessary information required under the regulations prescribed for label statements concerning dietary properties as promulgated by the Administrator as published in the Federal Register of November 22, 1941.

"The court further finds that the trademark 'SPARK O' LIFE' standing alone or apart from the label is not misleading nor misbranding of the product in violation of Title 21, U. S. C., Section 343 (a).

"The court further finds that all other statements on the label are not misleading.

"The court further finds and concludes for the reasons above stated, that said 33 Cases of Spark O' Life should be condemned, forfeited and confiscated.

"IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the said 33 Cases of Spark O' Life be and the same hereby are condemned, forfeited and confiscated.

"IT IS FURTHER ORDERED, ADJUDGED and DECREED that the said 33 Cases of Spark O' Life be destroyed."

6590. Misbranding of Vbev. U. S. v. 16 Cans of Vbev. Decree of condemnation and destruction. (F. D. C. No. 5457. Sample No. 74285-E.)

LIBEL FILED: September 25, 1941, Southern District of New York.

ALLEGED SHIPMENT: On or about July 8, 1941, from Jersey City, N. J., by Health-aids, Inc.

PRODUCT: 16 10-ounce cans of Vbev, at New York, N. Y.

Examination disclosed that the article's content of calcium was 796 milligrams per ounce.

LABEL, IN PART: "Vbev A Food Beverage A Food Supplement Rich In Natural Vitamin B Complex with Vitamins A, D, and Essential Minerals * * * Purity Products Inc. Jersey City New Jersey Ingredients: Diastasic Malt Syrup, Dextrose, Whole Liquid Milk, Tricalcium Phosphate, Ferric Pyrophosphate—Soluble, Molasses, Natural Vitamin B Complex and Vitamin A and D Concentrate."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement on the label, "Not less than the following values for each ounce of Vbev are maintained through periodic laboratory assays * * * Calcium 1000 milligrams," was false and misleading; the statements in the labeling to the effect that Vbev was a new discovery and a new food beverage, developed after years of scientific research and investigation, was false and misleading since the article was merely a combination of well-known foods; and the statements in the labeling which represented and implied that the article was efficacious in the cure, mitigation, treatment, or prevention of nervousness, tiredness, sleeplessness, underweight, infections, digestive disorders such as diarrhea, lack of appetite, gas pains, stunted growth, loss of hair, and general failure in physical well-being; and that it was efficacious to form and preserve strong bones and teeth, develop proper skin tone, prevent night blindness, over-brittle fingernails, dietary anemia, and many skin disorders; that it would protect eyes from degeneration and cataract, promote proper assimilation of calcium and phosphorus, provide quick energy between meals, and aid clotting of blood and red pigmentation of blood; and that it would provide a valuable supplementary

supply of natural vitamin B complex as well as vitamins A and D and the vital minerals, calcium, phosphorus, iron, and copper, were false and misleading since the article was not efficacious for such purposes and conditions.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, reported in drugs and devices notices of judgment, No. 1127.

DISPOSITION: On June 3, 1942, Purity Products, Inc., claimant, filed an answer denying that the product was misbranded. On March 25, 1943, the case having come on for trial before the court, the claimant having failed to appear to defend, and the Government having presented its proof, the court, on April 14, 1943, found that the article was misbranded as alleged in the libel. Judgment of condemnation was entered on April 22, 1943, and the product was ordered destroyed.

6591. Misbranding of Vigor 8. U. S. v. 60 Cases of Vigor 8 and 2,000 Leaflets. Default decree of condemnation and destruction. (F. D. C. No. 9806. Sample No. 37662-F.)

LIBEL FILED: April 19, 1943, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about March 23, 1943, by the Royal Products Co., Chicago, Ill.

PRODUCT: 60 cases, each containing 12 10-ounce jars, of Vigor 8, and 2,000 leaflets entitled "Charles D. Kasher's Health and Beauty Chart," at Detroit, Mich.

Examination showed that the article contained dried brewers' yeast, corn flour, corn germ, and wheat germ.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statements, designs, and devices on the labels attached to the jars and in the above-mentioned leaflets were false and misleading since they represented and suggested that the article was of significant nutritional value by reason of the presence of vitamin B₆, vitamin E, and other factors of the B complex as found in brewers' yeast, and the elements potassium, sulfur, sodium, magnesium, copper, zinc, chlorine, and manganese; and that consumption of the product would insure normal functioning of the various organs of the body and would prevent and correct abnormalities of those organs and such disease conditions as cold infection, ulceration, stone formation, cystitis, spasms, cramps, exhaustion, inflammation, paralysis, conjunctivitis, cataract, night blindness, scaliness, dryness and paleness of the skin, skin sores, gum infections, scurvy, loose teeth, and diabetes, whereas the article was not of significant nutritional value by reason of the presence of the vitamins, factors, and elements mentioned, and consumption of the product would not insure normal functioning of the various organs of the body and would not prevent or correct abnormalities of those organs or the disease conditions mentioned and suggested.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 1078.

DISPOSITION: July 16, 1943. No claimant having appeared, judgment of condemnation was entered and the product and the leaflets were ordered destroyed.

6592. Misbranding of Vita Sert (candy). U. S. v. 367 Cases of Vita Sert. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 10453. Sample No. 11550-F.)

LIBEL FILED: August 23, 1943, Northern District of California.

ALLEGED SHIPMENT: On or about July 20, 1943, by the Cook Chocolate Co., from Chicago, Ill.

PRODUCT: 367 cases, each containing 12 boxes of 24 bars each, of Vita Sert (candy), at San Francisco, Calif.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement on the label of the article and on a card enclosed in the boxes containing the bars, "A Bar a Day Supplies Daily Needed Vitamins," was misleading in that it suggested that one bar supplied the minimum daily requirements of each of the vitamins listed, whereas the article supplied not more than three-fourths of the minimum daily requirement of vitamin A, not more than two-thirds of vitamin B₁, and not more than one-half of riboflavin; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses